



# **STATE MINING AND GEOLOGY BOARD**

## **EXECUTIVE OFFICER'S REPORT**



ARNOLD  
SCHWARZENEGGER  
GOVERNOR

**For Meeting Date: October 14, 2010**

**Agenda Item No. 9: Public Hearing: Consideration of Low Gross Exemption, Crane Mills (CA Mine ID #91-40-0045), Crane Mills (Operator), Mr. Frank Barron (Agent), Tehama County.**

**INTRODUCTION:** Pursuant to Public Resources Code (PRC) Section 2207, each mine operator must submit an Annual Reporting Fee by July 1 of each year. The Annual Fee amount is provided for under California Code of Regulations (CCR) Section 3695 et seq. This Annual Fee amount generally is based upon the previous calendar year's production. A special exemption from the annual fee amount is provided for under CCR Section 3699. On August 2, 2010, the Department of Conservation, Office of Mine Reclamation (OMR) denied a Low Gross Exemption request for the Crane Mills surface mining operation located in the County of Tehama. The Operator is appealing that denial to the SMGB.

**STATUTORY AND REGULATORY AUTHORITY:** Public Resources Code (PRC) Section 2207 requires the SMGB to impose an annual reporting fee on each active and idle mining operation.

The SMGB's regulations pursuant to California Code of Regulations (CCR) Section 3699(a) provides for the exemption (Low Gross Exemption) from the full annual fee amount based on four criteria as follows:

*"For the calendar reporting year, a single operator or mining company may file with the Office of Mine Reclamation of the Department of Conservation, a written request for an exemption from the method of fee assessment set forth in Section 3698. Neither the State, nor any county, city, district or other political subdivision shall be eligible for an exemption under this Section. A request for an exemption must be filed on a form (Low Gross Exemption Fee Request, Form MRRC-4L) supplied by the Department of Conservation and received by the Department of Conservation by July 1 following the calendar reporting year. The Department of Conservation shall grant the exemption if information submitted and confirmed by the annual report form and approved reclamation plan, clearly demonstrates that the operation meets the following criteria:*

- (1) material is extracted from one surface mining operation, and lead agency approval of a reclamation plan and financial assurance has been obtained; and*
- (2) all of the single operator or mining company's surface mining operation located in the State of California is tied to, or located on, one site; and*
- (3) the amount of the operator's gross income from the surface mining operation for the reporting calendar year was less than \$100,000, and proof of gross income is*



*Executive Officer's Report*

*supplied in the form of a signed federal tax return or returns accompanied by a completed and signed Federal Internal Revenue Service Form 4506, or a report prepared and signed by a certified public accountant; and*

*(4) the owner or operator has submitted an annual reporting fee of four hundred dollars (\$400) as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, beginning with the 2005-2006 fiscal year and annually thereafter.”*

1. Material is extracted from one surface mine operation which has a lead agency approved reclamation plan and financial assurance;
2. All of the single operator or mining company's surface mining operation is located in California and is on one site;
3. The amount of the operator's gross income from the surface mining operation for the reporting calendar year is less than \$100,000, and is verified by signed tax return or other record;
4. The owner or operator has submitted an annual reporting fee of \$400.

CCR Section 3699(c)(d) provides for the operator to appeal the denial of the Low Gross Exemption request to the SMGB; provides for the SMGB to grant the Low Gross Exemption, or uphold the denial of the exemption request.

PRC Section 671 notes that the director shall have no power to amend or repeal any order, ruling, or directive of the SMGB.

**APPEAL PETITION:**

**In the Matter of:**

**Crane Mills Mine vs. Director, DOC  
(CA Mine ID #91-52-0040)**

**Petitioner's Request:** The Petitioner requests that Crane Mills be granted a Low Gross Exemption since all four criteria set forth in CCR Section 3699(a) are adequately satisfied. Although the operator noted its mine status as Idle on its 2009 Mine Annual Operation Report dated July 1, 2010, the Interim Management Plan (IMP) which was approved by the lead agency in October 15, 2010, notes the date the operation went idle as July 1, 2009. Thus, the site was deemed active for the first half of 2009, with an approved IMP attached (although the IMP was not actually approved until October 2009).



**Director's Actions:** The Director has denied the Petitioner's request because the status of the mining operation is not reported as "Active."

**Past SMGB Actions on this Appeal:** There have been no past actions set forth by the SMGB on this appeal.

**Proceedings:** The purpose of this Proceeding is to allow the Petitioner and the Department of Conservation to present arguments regarding the denial by the Director of a request for a Low Gross Exemption. Pursuant to CCR Section 3699, the SMGB may affirm the denial of the Low Gross Exemption, or may by its own actions grant the request for Low Gross Exemption.

Following the presentations, the SMGB will consider the issues before it and may ask questions of the participants.

The Order of the Proceedings will be as follows:

1. Identification of the Record by the Department of Conservation;
2. Statements on Behalf of the Petitioner;
3. Statements on Behalf of the Director;
4. Statements on Behalf of the Lead Agency;
5. Statements on Behalf of the Public;
6. Rebuttal on Behalf of the Petitioner;
7. Rebuttal on Behalf of the Director;
8. Motion to close the public hearing.

Notwithstanding the above, the Chairman or the Chairman's designee for the purposes of conducting these procedures may, in the exercise of discretion, determine the order of these proceedings, and set time limits.

**CONSIDERATIONS OF THE SMGB:** The SMGB is to determine the following:

- 1.) Based on evidence presented by the Petitioner and the Director, and any other interested parties, are the findings for the Director's determination to deny the Low Gross Exemption substantially true and correct; and



- a. If the Director's findings are substantially true and correct, the SMGB must uphold the denial and order the Petitioner to pay the annual fee calculated under CCR Section 3698 within 30 days of notification.

Or,

- 2.) If the Director's findings are NOT substantially true and correct, the SMGB may grant the Low Gross Exemption based on its own findings.

**EXECUTIVE OFFICER'S RECOMMENDATION:** The Executive Officer offers no recommendations.

**SUGGESTED MOTION LANGUAGE:**

Motion IA: To determine whether the Director's findings are substantially true and correct:

*Mr. Chairman, in light of the information before the State Mining and Geology Board today, I move that the Board determine that the Director's findings are true and correct.*

**And,**

Motion IB: To uphold the Director's denial:

*Mr. Chairman, in light of the information before the State Mining and Geology Board today, I move that the Board uphold the denial and order the Petitioner, Crane Mills Mine (CA Mine ID #91-52-0040), to pay the annual fee calculated under CCR Section 3698 within 30 days of notification.*

**Or,**

Motion IIA: To determine whether the Director's findings are substantially not true and correct:

*Mr. Chairman, in light of the information before the State Mining and Geology Board today, I move that the Board determine that the Director's findings are not true and correct.*



**And,**

Motion IIB: To grant the Low Gross Exemption:

*Mr. Chairman, in light of the information before the State Mining and Geology Board today, I move that the Board grant the Low Gross Exemption to Crane Mills Mine (CA Mine ID #91-52-0040).*

Respectfully submitted:

---

Stephen M. Testa  
Executive Officer



## **Exhibit A**

**Exhibit A          Petitioner's Documentation dated August 10, 2010.**

**Exhibit B          Office of Mine Reclamation Staff Report**

